

2000 No. 69

PENSIONS

The Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2000

Made 9th March 2000

Coming into operation 3rd April 2000

The Department for Social Development, in exercise of the powers conferred by Articles 49(8) and (9)(b), 59(1) and 86(1) of the Pensions (Northern Ireland) Order 1995(a), and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2000 and shall come into operation on 3rd April 2000.

(2) In these Regulations—

“the Minimum Funding Requirement Regulations” means the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(c);

“the Scheme Administration Regulations” means the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(d).

Amendment of the Scheme Administration Regulations

2.—(1) The Scheme Administration Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 16(e) (prescribed time in which an employer must make payments to trustees or managers) for “Article 49(8)(b)” there shall be substituted “Article 49(8)”.

(3) After regulation 16 there shall be inserted the following regulation—

“Time limits for giving notice to the Authority and to the member and circumstances in which such notice need not be given

16A.—(1) Subject to paragraph (2), where an amount corresponding to any contribution payable on behalf of an active member of an

(a) S.I. 1995/3213 (N.I. 22); Article 49(8) to (13) is substituted for Article 49(8) by Article 11(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(b) See Article 8(b) of S.R. 1999 No. 481

(c) S.R. 1996 No. 570; relevant amending regulations are S.R. 1999 No. 486

(d) S.R. 1997 No. 94; relevant amending regulations are S.R. 1997 No. 160 and S.R. 1999 No. 486

(e) Regulation 16 was amended by paragraph 16(4) of the Schedule to S.R. 1997 No. 160

occupational pension scheme is deducted from that member's earnings in respect of any employment and is not paid to the trustees or managers of the scheme within the period of 19 days commencing on the day following the end of the month in which the deduction is made, the trustees or managers of the scheme shall give notice of such default—

- (a) to the Authority before the end of the period of 30 days commencing with the day following the 19th day of that period, unless payment has been made before the end of the period of 10 days commencing with the day following that 19th day and the default is only the first or second default by that employer under Article 49(8) in the period of 12 months ending with that 19th day; and
- (b) to the member before the end of the period of 90 days commencing with the day following that 19th day, unless payment has been made before the end of the period of 60 days commencing with the day following that 19th day.

(2) No notice need be given under paragraph (1)—

- (a) where the scheme is exempt from the requirement to secure the preparation, maintenance and revision of a payment schedule for the purposes of Article 85 by virtue of regulation 17(a);
- (b) where the scheme is exempt from the requirement to secure the preparation, maintenance and revision of a schedule of contributions for the purposes of Article 58(1)—
 - (i) by virtue of any of sub-paragraphs (a) to (e), (g) or (h) of regulation 28(1) of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996; or
 - (ii) by virtue of being a scheme the only benefits provided by which are death benefits, and under the provisions of which no member has accrued rights; or
- (c) in respect of a failure to make a payment of any voluntary contribution to the trustees or managers of the scheme.”.

(4) After regulation 21(3)(b) (circumstances where notice of non-payment of any amount payable to a scheme need not be given) there shall be added—

“(4) Where, under Article 49(9)(b), there is a requirement on the trustees or managers to give notice of a failure to pay within a prescribed period an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member's earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount on or before the due date for the purposes of paragraph (1) of Article 86, in a case to which that paragraph would otherwise apply.”.

(a) Regulation 17 was amended by paragraph 16(5) of the Schedule to S.R. 1997 No. 160
(b) Regulation 21(3) was inserted by regulation 11(5) of S.R. 1999 No. 486

Amendment of the Minimum Funding Requirement Regulations

3. In regulation 23 of the Minimum Funding Requirement Regulations(a) (failure to pay contributions due under schedule of contributions)—

(a) in paragraph (1), for “ A notice” there shall be substituted “Subject to paragraph (4), a notice”;

(b) after paragraph (3) there shall be added—

“(4) Where, under Article 49(9)(b), there is a requirement on the trustees or managers to give notice of a failure to pay within a prescribed time an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member’s earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount on or before the due date for the purposes of paragraph (1) of Article 59, in a case to which that paragraph would otherwise apply.”.

Sealed with the Official Seal of the Department for Social Development
on 9th March 2000.

(L.S.)

John O’Neill
Senior Officer of the Department
for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend two sets of regulations related to the Pensions (Northern Ireland) Order 1995 (“the Order”) pursuant to Article 11(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (“the 1999 Order”) which substitutes paragraph (8) of Article 49 of the Order with paragraphs (8) to (13). Like the earlier Article 49(8), these paragraphs are concerned with the regulation of payments by employers to occupational pension schemes. However, whereas previously an employer was liable to a criminal penalty if he breached the requirement that deductions from an employee’s earnings in respect of contributions to an occupational pension scheme be paid to the trustees or managers within a prescribed period, the substituted provisions give the Occupational Pensions Regulatory Authority (OPRA) the power to impose a civil sanction for breach of that requirement. A person found guilty of the fraudulent evasion of the obligation to make timely payment, will though, remain liable to a criminal penalty.

Regulation 1 is concerned with citation, commencement and interpretation.

Regulation 2 inserts regulation 16A in the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 providing for the period within which a deduction from earnings is to be paid to trustees or managers, laying down the time limits within which the trustees or managers must give notice of a breach of that requirement to OPRA and the member, and specifying the circumstances in which such notice need not be given. It also adds paragraph (4) to regulation 21 to prevent the trustees or managers of a money purchase scheme from being subject to a double reporting requirement in respect of a breach of the obligation to make timely payment to schemes of any contributions deducted from a member’s earnings.

Regulation 3 amends the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996 so as, similarly, to prevent the trustees or managers of a salary related scheme being subject to such a double reporting requirement.

The Welfare Reform and Pensions (1999 Order) (Commencement No. 2) Order (Northern Ireland) 2000 (S.R. 2000 No. 68 (C. 2)) provides for the coming into operation of Article 11(1), of the 1999 Order, in so far as it is not already in operation, on 3rd April 2000.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

£2.00

Published by The Stationery Office Limited

Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. 600714. C3. 3/00. Gp. 130. 14567.